UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PERRY JOHNSON REGISTRARS, INC.,
a Michigan Corporation,

Petitioner, CIVIL ACTION NO:

vs.

BERNIE C. CARPENTER,
an individual,

Respondent.
_______________________________/

John C. Schwartz (P70841)
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PETITION TO CONFIRM ARBITRATION AWARD

Petitioner, Perry Johnson Registrars, Inc., ("PJR") by its counsel Pilchak Cohen & Tice, P.C. brings its Petition to Confirm Arbitration Award and makes the following allegations in support thereof:

Parties and Jurisdiction

1. Perry Johnson Registrars, Inc. ("PJR") is a corporation incorporated under the laws of Michigan with its principal place of business in Michigan.

2. Bernie C. Carpenter ("Carpenter") was a professional registrar contracted to perform services for PJR when events that are the subject of the underlying arbitration occurred. By all information and belief, Respondent, Bernie C. Carpenter is a resident of the City of Costa Mesa, County of Orange, State of California.

3. The arbitration award that is the subject of these proceedings for confirmation arose from and was rendered pursuant to a contract between the parties hereto.

4. The amount in controversy exceeds $75,000 as asserted in the underlying claim and established by the award.

5. This Court has jurisdiction over these proceedings under 28 U.S.C. § 1332.

6. Venue is proper in this District pursuant to 9 U.S.C. § 9 and 28 U.S.C. § 139.

Facts

7. On or about March 21, 2003, Petitioner and Respondent entered into a written Auditor Agreement whereby Respondent became engaged by Petitioner to provide pre-assessments, documentation review, registration, and surveillance audits to firms who have contracted same from PJR. Paragraph 9.2 of the Agreement provides for arbitration of disputes arising under the Agreement. A true and correct copy of the Agreement is attached as Exhibit "A" and made part of this petition.

8. On or about April 15, 2008, Petitioner submitted the dispute to the American Arbitration Association as provided by the arbitration clause of the Agreement. The dispute involved Respondent's breach of various non-compete provisions contained within his Auditor Agreement with PJR.

9. On March 19, 2009, a hearing was held in Southfield, Oakland County, Michigan, before David M. Wells, as arbitrator after notice was properly given to all the parties to the arbitration, at which Petitioner and Respondent, through their attorneys, presented their evidence.

10. On or about June 3, 2009, the arbitrator made his award determining all issues submitted to him, and awarded Petitioner the sum of Two-Hundred Fifteen-Thousand Five-Hundred Dollars and No Cents ($215,500.00), plus fees totaling Five-Thousand Five-Hundred Eighty-Seven Dollars and Fifty Cents ($5,587.50) for a total award of Two-Hundred Twenty-One Thousand Eighty-Seven Dollars and Fifty Cents ($221,087.50). A signed copy of the award was served on Petitioner on June 3, 2009. A true and correct copy of the award is attached as Exhibit "B" and made a part of this petition.

11. To date, Respondent has not complied with the arbitration award, failing to pay any portion of the sum awarded to PJR.

12. Respondent has not sought to vacate, modify, or challenge the Arbitration Award.

13. The arbitration award was obtained pursuant to the Agreement of the parties, the rules of the arbitration organization, and the law.

14. Petitioner is entitled to confirmation of the Arbitration Award and entry of judgment in conformity with the award pursuant to the § 9 of the Federal Arbitration Act.

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15. This petition is supported by the Affidavit of Terry Boboige, the President of Petitioner, Perry Johnson Registrars, Inc. A copy of the Affidavit is attached as Exhibit "C."

WHEREFORE, Petitioner, Perry Johnson Registrars, Inc., requests the following relief:

i. For an order confirming the award.
ii. For judgment against Respondent in conformity with the award in the sum of $221,087.50, plus interest from the date of entry of the award.
iii. For costs and attorney fees incurred in bringing this petition.
iv. For such other and further relief as the court may deem proper.

Respectfully submitted,

Pilchak Cohen & Tice, P.C.

/s John C. Schwartz

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Dated: July 28, 2009

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BRIEF IN SUPPORT OF
PETITION TO CONFIRM ARBITRATION AWARD

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STATEMENT OF THE ISSUE PRESENTED

1. Whether Petitioner's arbitration award must be confirmed and judgment entered where application for confirmation is properly made in accordance with the Federal Arbitration Act and where the award has not been vacated, modified, or corrected and is otherwise proper.

   Petitioner's Answer: "Yes"

   Respondent's Anticipated Answer: "No"

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AUTHORITY FOR RELIEF SOUGHT

Cases

Allied-Bruce Terminix Cos., v. Dobson, 513 U.S. 265 (1995) 2

Barcume v. City of Flint, 132 F.Supp 2d 549, 555 (E.D. Mich. 2001) 2

Decker v. Merrill Lynch, Pierce, Fenner and Smith, Inc., 205 F.3d 906 (6th Cir. 2000) 2

Doctor's Assocs., Inc. v. Cassarotto, 517 U.S. 682 (1996) 2

Hall Street Assoc., L.L.C. v. Mattel, Inc., ___ U.S. ___, 128 S.Ct. 1396, 1405 (2008) 2

Health Services Managemetn Corp. v. Hughes, 975 F.2d 1253 (7thCir. 1992) 2

Merrill Lynch v. Jaros, 70 F.3d 418, 420 (6th Cir. 2005) 2

Nationwide Mutual Ins. Co. v. Home Ins. Co., 429 F.3d 640 (6th Cir., 2005) 2

Statutes

The Federal Arbitration Act, 9 U.S.C. § 1 1

The Federal Arbitration Act, 9 U.S.C. § 9 1

The Federal Arbitration Act, 9 U.S.C. § 6 2

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I. Introduction and Statement of Facts

On or about March 21, 2003, Petitioner and Respondent entered into an Auditor Agreement which set forth the terms and conditions of the parties relationship and provided that the parties would settle any dispute arising out of the Agreement by arbitration with the American Arbitration Association (AAA). The Agreement provided that judgment may be entered in a court of jurisdiction within the State of Michigan.

On or about April 15, 2008, Petitioner filed an arbitration claim with the AAA claiming damages as a result of Respondent's breach of the Auditor Agreement. The parties conducted discovery and a hearing was held on March 19, 2009 at which both Petitioner and Respondent were afforded the opportunity to present evidence. Following the hearing, the parties were provided with the opportunity to submit post hearing briefs.

On June 3, 2009, the Arbitrator issued Petitioner an award of Two-Hundred Fifteen-Thousand Five-Hundred Dollars and No Cents ($215,500.00), plus fees advanced by Petitioner on behalf of Respondent totaling Five-Thousand Five-Hundred Eighty-Seven Dollars and Fifty Cents ($5,587.50) for a total award of Two-Hundred Twenty-One Thousand Eighty-Seven Dollars and Fifty Cents ($221,087.50). Petitioner now moves to confirm this award.

II. Applicable Law and Standard of Review

The Federal Arbitration Act ("FAA"), 9 U.S.C. § 1 et seq., provides for judicial enforcement of arbitration awards. The Federal Arbitration Act, 9 U.S.C. § 9, provides that "within one year after the award is made any party to the arbitration may apply to the court so specified for an order confirming the award, and thereupon the court must grant such an order unless the award is vacated, modified, or corrected." *See, Barcume v. City of Flint*, 132 F.Supp 2d 549, 555 (E.D. Mich. 2001). Accordingly, this court has the obligation to confirm

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Petitioner's arbitration award into a judgment. See *Doctor's Assocs., Inc. v. Cassarotto*, 517 U.S. 682 (1996) (stating the purpose of the Federal Arbitration Act is to ensure that private Agreements to arbitrate are enforced); *Allied-Bruce Terminix Cos., v. Dobson*, 513 U.S. 265 (1995) ("[T]he basic purpose of the Federal Arbitration Act is to overcome courts' refusals to enforce Agreements to arbitrate.").

The Act expresses a strong policy that arbitration awards should be confirmed, and the scope of judicial review is one of the narrowest standards in all of American jurisprudence. *Nationwide Mutual Ins. Co. v. Home Ins. Co.*, 429 F.3d 640 (6th Cir., 2005). The Act contemplates that courts will have only a limited role in reviewing arbitration awards. *Decker v. Merrill Lynch, Pierce, Fenner and Smith, Inc.*, 205 F.3d 906 (6th Cir. 2000). The 6th Circuit has held that courts will not disturb an Arbitrator's award on judicially created grounds unless the award was entered "in manifest disregard of the law." *Merrill Lynch v. Jaros*, 70 F.3d 418, 420 (6th Cir. 2005). The Supreme Court recently held that, "On application for an order confirming the arbitration award, the court 'must grant' the order 'unless the award is vacated, modified, or prescribed in sections 10 and 11 of this title.'" *Hall Street Assoc., L.L.C. v. Mattel, Inc.*, ___ U.S. ___, 128 S.Ct. 1396, 1405 (2008).

The FAA provides that "[a]ny application to the court…shall be made and heard in the manner provided by law for the making and hearing of motions…." 9 U.S.C. § 6. Applications under the Act are to be treated procedurally in the manner of motions. *Health Services Management Corp. v. Hughes*, 975 F.2d 1253 (7thCir. 1992). The procedures governing motion practice in this court are embodied in E.D. Mich. LR 7.1, and have been followed by Petitioner.

WHEREFORE, Petitioner, Perry Johnson Registrars, Inc., requests the following relief:

i. For an order confirming the award.
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Respectfully submitted,

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Dated: July 28, 2009

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